#### FEDERAL COMMUNICATIONS COMMISSION CREDIT & DEBIT MANAGEMENT Washington, D. C. 20554 CREDIT & DEBIT MANAGEMENT COPY ORIGINATER, OMD

OFFICE OF MANAGING DIRECTOR

DEC 2 0 1999

46-245

Richard S. Becker, Esquire Richard S. Becker and Associates 1915 Eye Street, N.W. Eighth Floor Washington, D.C. 20006

> RE: TSR Wireless LLC (call sign KNKB 250), Request for Refund for Dismissed Application,

FCC File # 0000003107

Fee Control No. 9811258130325017

Dear Mr. Becker:

This responds to your letter of February 19, 1999 requesting a refund of the \$295 filing fee submitted on December 24, 1998 with the Application to Modify facilities at TSR Wireless's Station call sign KNKB 250.

I agree with you that the fee should have been remitted on dismissal of the initial application. Accordingly, a check in the amount of \$295 made out to the original payor, Richard S. Becker & Associates, Chtd, will be mailed at the earliest practicable time. If you have any questions concerning this letter, please call the Credit & Debt Management Center at (202) 418-1995.

Sincerely,

Mark Reger

Chief Financial Officer

Par. S.+ 463



#### FEDERAL COMMUNICATIONS COMMISSION OFFICE OF GENERAL COUNSEL

#### memorandum

TO:

Donna Viert, OGC

Tom Putnam, OMD

FROM:

Paul K. Cascio, OGC

SUBJECT:

TSR Wireless LLC Request for Refund of Filing Fee, FCC File No. 000003107

DATE:

October 15, 1999

Richard S. Becker, on behalf of TSR Wireless LLC (TSR), requested a refund of the \$295 filing fee submitted with its Application for Modification of Station KNKB 250 on December 24, 1998 (ULS FCC 601 File # 0000003107). The application added a facility and modified the existing license to delete a location; therefore, two fees totaling more than the submission were required. Because the fee was insufficient, the application was dismissed (Public Notice, dated January 20, 1999) (Fee control # 9812 2881 3056 4021) (enclosure 1). The Commission's Payment Transactions Detail Report indicates the fee was not refunded (see enclosure 2, fee control number 9811 2581 1032 5017), although 47 CFR §1.1113(a)(2) requires a refund.

On February 19, 1999, TSR submitted a request for Modification (ULS FCC 601 File # 0000006756) (enclosure 3) to add a station at 29 degrees, 25 minutes, 41.8 seconds north, and 98 degrees, 29 minutes, 33.0 seconds west. That request was approved on March 19, 1999. I assume from that approval that TSR complied with administrative application procedures and submitted the correct fees. Accordingly, the fee from the earlier transaction (ULS File # 0000003107) remains unresolved.

As required by 47 CFR §1.1113(a)(2), "[t]he full amount of any fee submitted will be returned or refunded as appropriate, . . . (2) When the fee processing staff or bureau/office determines that an insufficient fee has been submitted within 30 calendar days of receipt of the application . . . and the application . . . is dismissed." The history of File # 0000003107 includes the entries on January 11 and 13, 1999 addressing payment, and dismissing the application on January 13, 1999. Because the determination was less than 30 calendar days from the date of the check and

<sup>&</sup>lt;sup>1</sup> The ULS, General Information frame identifies the fee control number as 9902 2281 3041 6010. Apparently, there are at least three fee numbers associated with this particular transaction.

application, refund of the fee was appropriate. The presumptions of administrative regularity associated with the later application and favorable action strongly suggest that the correct fee was paid, and this amount is an overpayment.

The record supports TSR's request for refund.

This has been coordinated with Mr. James Bennett, Deputy Chief, Licensing and Technical Analysis Branch, WTB.

## FEDERAL COMMUNICATIONS GAMMI 40235

Washington, D. C. 20554

OFFICE OF MANAGING DIRECTOR

> Benjamin Perez, Esquire Abacus Communications Company 1801 Columbia Road, N.W. Suite 101 Washington, D.C. 20009-2031

> > Re: Fee Control #9611208185113001 Fee Control # 9807098185068003

Dear Mr. Perez:

This will respond to your request for refund of the filing fee submitted on behalf of Turnpike Television ("Turnpike"), permittee of W28AS, Wheeling, West Virginia, in connection with its applications for special temporary authority ("STA").

You have represented that on November 11, 1996, Turnpike filed its STA application, which was rendered moot by Commission action on November 25, 1996. You also have represented that on July 7, 1998, Turnpike inadvertently filed for extension of the STA, which was never acted upon "since a grant of STA was never given to W28AS." You thus have sought refund of the filing fees associated with the STA applications.

The Commission has explicitly stated that a refund would not be granted once an application has cleared the fee review process, irrespective of the disposition of the application. Establishment of a Fee Collection Program, 2 FCC Rcd 947, 949 (1987), recon. denied, 3 FCC Rcd 5987 (1988). However, under the circumstances, since the initial STA application had been rendered moot by interim events, and the extension STA application was not required and only inadvertently filed, we believe that refund of the filing fee is warranted. See 47 C.F.R. §1.1113(a).

Accordingly, your request is granted. A check, made payable to the maker of the original check and drawn in the amount of \$250.00, will be sent to you at the earliest practicable time. If you have any questions concerning this refund, please contact the Chief, Fee Section at (202) 418-1995.

Sincerely,

inancial Officer

# 9611208185113001 \* 100003

#### ABACUS COMMUNICATIONS COMPANY

LEGAL AND ENGINEERING CONSULTANTS 1801 COLUMBIA ROAD, N.W., SUITE 101 WASHINGTON, DC 20009-2031 TELEPHONE: (202) 462-3680 FAX: (202) 462-3781 RECEIVED

Federal Community done Commission
Office of Socretary

JUL 1 5 1998

July 15, 1998

Andrew S. Fishel, Managing Director Office of Managing Director Federal Communications Commission Washington, DC 20554

Re: Request for Refund of Processing Fees for W28AS Wheeling, WV

Dear Mr. Fishel:

Turnpike Television ("Permittee") respectfully requests your assistance with the refund of Special Temporary Authority ("STA") processing fees for W28AS. On November 11, 1996 Permittee filed a Request for STA to FCC/Mellon with check #1023 in the amount of \$125.00. That STA request application was mooted on November 25, 1996 and was therefore not acted upon. On July 7, 1998 a request for extension of STA was filed on July 7, 1998 with check #2249 in the amount of \$125.00. Since a grant of STA was never given to W28AS the STA extension application was not acted upon either.

Accordingly, Permittee respectfully requests that a refund in the amount of Two Hundred Fifty Dollars and Zero Cents (\$250.00) be given to Permittee, payable to WBGN, Inc. If there are any questions regarding this submission, please contact the undersigned.

Respectfully submitted,

TURNPIKE TELEVISION

Benjamin Perez, Its Attorney

abacus@erols.com

7019

**Payment Transactions Detail Report** 

BY: FEE CONTROL NUMBER

Date: 8/7/98

Fee Control Payor Account Number Name Account Number Date

9611208185113001 TURNPIKE TELEVISION FCC2032220 11/19/96

**514 CHAUTAUQUA STREET** 

**PITTSBURGH** 

PA 15214

Payment Callsign Applicant Zip Trans Payment Code \_ Seq Num Applicant Name Current Balance Payment Bad Detail Type Code Other Check Amount Quantity \_Amount Type. \$125.00 \$125.00 1 1 W28AS **TURNPIKE TELEVISION** 15214 \$125.00 1 **PMT** MGL Total \$125.00

**Payment Transactions Detail Report** 

BY: FEE CONTROL NUMBER

Date: 8/7/98

Fee Control Payor Account Number Name Account Number Date

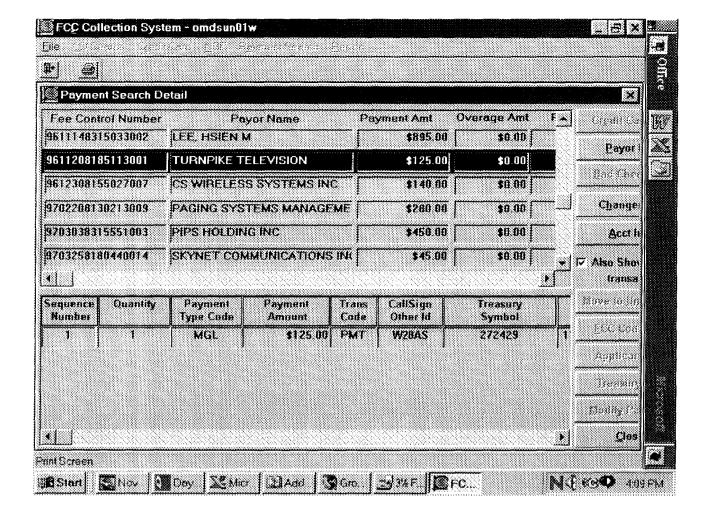
9807098185068003 GOODWORTH, DEBRA A FCC2032200 07/08/98

**514 CHAUTAUQUA STREET** 

**PITTSBURGH** 

PA 15214

Payment Callsign Seq Num Applicant Zip Bad Check Detail Amount Trans Payment Code Current Balance Applicant Name **Payment** Other Id Type Quantity Code Type \_Amount \$125.00 \$125.00 1 1 **W28AS** GOODWORTH, DEBRA A 15214 \$125.00 1 PMT MGL Total \$125.00



C&DM Center

## FEDERAL COMMUNICATIONS COMMISSION Washington, D. C. 20554 APR 2 0 1999 DOCKET

DOCKET FILE COPY ORIGIN

OFFICE OF MANAGING DIRECTOR

Mr. J. Ardell Sink President United Broadcasting Enterprises, Inc. P.O. Box 607 Burnsville, N.C. 28714

Re: Request for Reduction and Refund of FY 1997 Regulatory Fees
Radio Stations WISE and WTZQ

Dear Mr. Sink:

This is in response to your request for a partial refund of the Fiscal Year (FY) 1997 regulatory fees for United Broadcasting Enterprises, Inc. as licensee of Radio Stations WISE, Asheville, North Carolina and WTZQ, Hendersonville, North Carolina.

WISE paid an FY 1997 regulatory fee of \$1,000 based on signal coverage of 288,401 people, and WTZQ paid an FY 1997 regulatory fee of \$800 based on signal coverage of 256,983. WISE paid an FY 1998 regulatory fee of \$800 based on signal coverage of 110,304 people, and WTZQ paid an FY 1998 regulatory fee \$600 based on signal coverage of 52,744 people. You assert that the FY 1998 regulatory fees were based on the correct population and you request a refund of the difference between the FY 1997 and FY 1998 regulatory fees.

The FY 1997 regulatory fees for all radio stations were derived by calculating the populations within the interference free contour of each individual station. We recognized that some broadcasters believed that the city grade contour which each licensee is required to place over its community of license may be a better reflection of the "core" population served by that station, and in response to complaints from members of the broadcast industry, we calculated FY 1998 radio regulatory fees using each station's city grade contour.

The interference free contour, however, was appropriate for calculating the FY 1997 regulatory fees because that contour represented the area in which listeners received the station's protected signal. Consequently, as a matter of equity, recalculating a station's FY 1997 fees using the city grade contour for measuring populations and assessing fees, would require recalculating the service areas, populations, and fees, at a minimum, for all radio broadcast stations, in order to insure the Commission's ability to collect the required amount in fees and to treat all licensees equally. Thus, the Commission

will not reduce, on an ad hoc basis, an individual station's regulatory fee solely because its population served would be lower had we relied on a different service contour or that because of the modification of our methodology for computing fees, it paid a lower regulatory fee in FY 1998.

Accordingly, your request for reductions and partial refunds of the FY 1997 regulatory fees for Radio Stations WISE and WTZQ is denied. If you have any questions concerning the regulatory fees, please call the Chief, Fee Section, at (202) 418-1995.

Sincerely,

Anief Financial Officer

7807218835401004

UNFORGETTABLE MUSIC

90 LOOKOUT ROAD ASHEVILLE, NC 28804 704-253-1310 704-253-5619 fax

717 GREENVILLE HWY. HENDERSONVILLE. NC 28739 704-697-1506 704-697-1416 fax

September 22, 1998

Office of the Managing Director Federal Communications Commission 1919 M. Street, N. W., Room 450 Washington, D. C. 20554

Atten: Regulatory Fee Waiver/Reduction Request

Ref: Radio Station WISE, Asheville, and WTZQ, Hendersonville 1997 Regulatory Fees

Dear Sir:

I am requesting a refund of the difference paid by Radio Station WISE and WTZQ in the regulatory fee paid in 1997 and In 1997 WISE paid a \$1,000 (ck # 8956) regulatory fee based on the population of 288,401. The 1998 fee of \$800 (ck# 9677) was paid on a population of 110,304. The 1998 population is correct for the WISE market. In 1997 WTZQ paid a \$800 (ck # 8956) regulatory fee based on the population of 256,983. 1998 fee of \$600 (ck # 8956) was paid on a population of 52,744. The 1998 population is correct for the WTZQ market.

Therefore, I request a refund of \$400 for WISE and \$200 for WTZQ, the difference between the 1997 fee and the 1998 fee paid. Please make the check to, United Broadcasting Enterprises, Inc. (WISE-WTZQ), P. O. Box 607, Burnsville, N. C. 28714.

Thank you,

President

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Date: 11/5/98

BY: FEE CONTROL NUMBER

Fee Control Number Payor Name Account Number Received Date **UNITED BROADCASTING ENTERPRISE** FCC2062572 09/18/98 9809218835401009

**POST OFFICE BOX 607** 

BURNSVILLE

28714 NC

Payment	Current Balance	Seq Num	Payment Type Code	Quantity	Callsign Other _ld	Applicant Name	Applicant Zip	Bad Check		Trans Code	Payment
\$1,422.00	\$1,422.00	2	MUB8	1	KA74967	UNITED BROADCASTING ENTERPRISE	28714		\$11.00	1	PMT
\$1,422.00	\$1,422.00	4	MUB8	1	KXB263	UNITED BROADCASTING ENTERPRISE	28714		\$11.00	1	PMT
\$1,422.00	\$1,422.00	1	MBC8	1	WISEAM	UNITED BROADCASTING ENTERPRISE	28714		\$800.00	1	PMT
\$1,422.00	\$1,422.00	3	MDC8	1	WTZQAM	UNITED BROADCASTING ENTERPRISE	28714		\$600.00	1	PMT
otal 4									\$1,422.00		

### FEDERAL COMMUNICATIONS COMMISSION Washington, D. C. 20554

JUL 1 3 1999 DOCKET FILE COPY ORIGINAL

OFFICE OF MANAGING DIRECTOR

James L. Oyster, Esquire 108 Oyster Lane Castleton, Virginia 22716-9720

Dear Mr. Oyster:

This is in response to your request for a waiver of the Fiscal Year (FY) 1998 regulatory fee that you filed on behalf of V.I. Stereo Communications Corp., (V.I. Stereo), licensee of FM Broadcast Station WVIS, Christiansted, St. Croix, U.S.V.I.

You assert that V.I. Stereo has suffered financial hardship and that station WVIS has been off-the-air for nearly a year and that the Commission has granted an application for modification of its facilities which will result in the station moving to an entirely new market on another island, Vieques, PR.

You explain that WVIS is a "lame duck" facility and has only returned to the air to preserve its permit, that it has no prospect of economic viability because of its impeding move and because St. Croix has been hit hard by hurricanes. However, when a dark station returns to the air, it is mandatory that it file documentation showing financial hardship in order to qualify for a fee waiver. Since WVIS was on the air for five months during 1998, it is necessary for the station to file documentation supporting its request for waiver of the 1998 regulatory fee.

The Commission held that regulatees can establish financial need by submitting:

[I] nformation such as a balance sheet and profit and loss statement (audited, if available), a cash flow projection . . . (with an explanation of how calculated), a list of their officers and their individual compensation, together with a list of their highest paid employees, other than officers, and the amount of their compensation, or similar information.

10 FCC Rcd at 12761-2762.

In determining whether a licensee has sufficient revenues to pay its regulatory fees, the Commission relies upon a licensee's cash flow, as opposed to the entity's profits. Thus, although deductions for amortization and depreciation, which do not affect cash flow, and payments to principals, reduce gross income for tax purposes, those deductions also represent money which is considered to be available to pay the regulatory fee.

In the absence of current documentation, you have failed to establish a compelling case of financial hardship. Therefore, your request for waiver of WVIS's regulatory fees is dismissed. Payment of the FY 1998 regulatory fee in the amount of \$1,250 for Radio Station WVIS is now due. The \$1,250 should be filed together with a Form FCC 159 (copy enclosed) within 30 days from the date of this letter. However, in view of your allegations of financial hardship, in lieu of payment, you may refile WVIS's request together with appropriate supporting documentation and a request to further defer payment of the fee, within 30 days from the date of this letter.

If you have any questions concerning the regulatory fees, please call the Chief, Fee Section at (202) 418-1995.

Sincerely,

f Finanical Officer

Enclosure

Jerry

# Before the FEDERAL COMMUNICATIONS COMMISSION Washington, D.C. 20554

In re Annual Regulatory Fee for	)
V.I. STEREO COMMUNICATIONS CORP.	) ) )
WVIS (FM), Christiansted, St. Croix, U.S.V.I.	)
To: Managing Director	

#### PETITION TO DEFER AND/OR WAIVE ANNUAL REGULATORY/FE

- V.I. Stereo Communications Corp., licensee of FM broadcast station WVIS, St. Croix, U.S.V.I., by its counsel, hereby requests that the Commission defer and/or waive the annual regulatory fee for the station (in the amount of \$1,250.00) in accordance with Section 1.1166 of the Commission's Rules. In support whereof, the following is stated:
- 1. The instant request is based on extreme hardship, a fact which is documented by the Commission records. Official notice may be taken of the fact that station WVIS was off the air for nearly a year until August 2, 1998 (see attached letter). In addition, the Commission has granted an application for modification of facilities for the station (BPH-970116IF) which would result in the station moving to an entirely new market on another island (Vieques, PR).
- 2. In essence, WVIS is a "lame duck" facility. Official notice may be taken that WVIS was ordered to move from St. Croix to Vieques in MM Docket No. 91-259. While the station was required to return to the air to preserve its permit, the station is operating without any prospect of economic viability because the station has been ordered to move to Vieques and advertisers know that there will be no continuing listener loyalty to the

Author four hubelship.

station. To compound the station's economic hardship, St. Croix has been hit hard by hurricanes over the past several years, which have led to a downward economic spiral, whereby the local government can barely meet payroll. Due to this harsh economic reality, the fact that much of the station's equipment was damaged by the hurricanes (making it necessary to operate at reduced power) and the fact that the station is a lame duck, WVIS is laboring under an extreme economic hardship.

WHEREFORE THE PREMISES CONSIDERED, it is respectfully requested that the annual regulatory fee be deferred until such time as the station can be reestablished at its new location in Vieques. It is further requested that the fee be waived in light of the current economic hardship demonstrated herein.

Respectfully submitted,

Law Offices
JAMES L. OYSTER
108 Oyster Lane
Castleton, Virginia 22716-9720

(540) 937-4800

September 17, 1998

V.I. STEREO COMMUNI-CATIONS CORP.

James I Oveter

Counsel

## FEDERAL COMMUNICATIONS COMMISSION CREDIT & DEBIT MANAGEMENT Washington, D. C. 20554 DOCKET FILE COPY ORIGINAL OMD

OFFICE OF MANAGING DIRECTOR

NOV 1 8 1999

Timothy K. Brady, Esq. P.O. Box 986 Brentwood, TN 37024-0986

RE: Request for Refund of Application Fee Wade Communications, Inc. File No. BPH-930423MC Fee Control No. 9304268195092005

Dear Mr. Brady:

This is in response to the request for refund of the application fee for a new FM radio station, filed on behalf of Wade Communications, Inc. You request that we waive and refund the filing fee paid by Wade Communications, Inc. under the refund provisions of the First Report and Order in the Matter of Implementation of Section 309(j) of the Communications Act, 13 FCC Rcd. 15920 (1998) (First Report and Order).

In the First Report and Order, the Commission determined that it would refund filing fees when applications for new stations were submitted prior to July 1, 1997, and are dismissed on pleadings disavowing interest in participating in the subsequently announced competitive bidding process. Id., at 15,957. You argue that Wade Communications, Inc. filed its application before July 1, 1997, and elected not to participate in the competitive bidding process. Wade Communications Inc.'s application, however, was dismissed with prejudice pursuant to the terms of a negotiated settlement agreement. Its situation does not fall within the parameters established by the Commission for the refund of fees with respect to such applications. Therefore, your request is denied.

If you have any questions concerning this letter, please call the Credit & Debt Management Center at 418-1995.

Sincerely,

Chief Financial Officer

9304248195092005

**RECEIVED** 

Before the

DEC - 4 1998

Federal Communications Commission Washington, D.C. 20554

FCC MAIL ROOM

In re	)	
WADE COMMUNICATIONS, INC.	)	File No. BPH-930423MC
	í	

To: The Managing Director

#### REQUEST FOR REFUND OF FILING FEE

Wade Communications, Inc. ("Wade"), former applicant (File No. BPH-930423MC) for a new FM station to operate on Channel 241A at Norwood, New York, by counsel herewith submits its request for refund of the filing fee, which it paid at the time the above referenced application was filed with the Commission. In support whereof the following is shown:

- 1. In its <u>First Report and Order</u> (FCC 98-194) in MM Docket No. 97-234, 63 Fed. Reg. 48615 (September 11, 1998) the Commission determined (at paragraphs 101-103) that it would refund the filing fees paid by applicants who: (a) were subject to the provisions of 47 USC 309(1) and (b) elected not to have the disposition of their applications determined by competitive bidding.
- 2. Wade filed its application for construction permit on April 23, 1993. At the time of filing Wade submitted the required filing fee in the amount of \$ 2,030.00 (See Exhibit A, hereto). Competing applications were filed, specifying the same

facilities. As of July 1, 1997, Wade's application was mutually exclusive with these other applications and remained pending.

Accordingly, Wade is an applicant subject to the provisions of 47 USC 309(1), which provided for special treatment of mutually exclusive applicants who filed their applications prior to July 1, 1997.

- 3. Wade has elected and previously advised the Commission of its election not to have the disposition of its application resolved by competitive bidding. In that regard, Wade requested dismissal of its application with prejudice, pursuant to the terms of a settlement agreement, which was filed with an accompanying joint request on January 30, 1998. On March 3, 1998, the Commission granted the joint request for approval of settlement and dismissed Wade's above referenced application with prejudice. See: Public Notice Report No. 44192, Broadcast Actions, released March 6, 1998.
  - 4. Accordingly, in light of Wade's status as a pre-July, 1997 applicant, entitled to treatment under the the provisions of 47 USC 309(1), and its election not to have the disposition of its application determined by competitive bidding, Wade is entitled to refund of the filing fee it previously paid, pursuant to the provisions of the Commission's <u>First Report and Order</u> (FCC 98-194). Therefore, it is requested that a check payable to "Wade Communications, Inc." in the amount of \$ 2,030.00 be forwarded promptly to its undersigned counsel at the address

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FOR FCC USE	
1086	
USE	

### APPLICATION FOR CONSTRUCTION PERMIT FOR COMMERCIAL BROADCAST STATION

FOR COMMERCIAL	BROADCAST STATION						
FOR CONTAISSION USE ONLY							
FLE NO.							
ection I - GENERAL INFORMA	ATION						
1 APPLICANT NAME Wade Communications	, Inc.						
MAILING ADDRESS (Line I) (P. O. Box 298	(Maximum 35 characters)						
MAILING ADDRESS (Line 2) 162 E. Orvis Street	-	characters)					
CITY Massena		STATE OR COUNTRY (If foreign address) ZIP CODE NY 13662					
TELEPHONE NUMBER (Included 315/764-0554 1/80	de area code) 0/342-1050	CALL LETTERS OTHER FCC II	DENTIFIER (IF APPLICABLE)				
FOR MAILING THIS APPLICAT	TON SEE INSTRUCTIONS FOR	R SECTION 1 - GENERAL INFORMATION	ON B.				
2 A. Is a fee submitted with	this application?		X Yes No				
B If No. Indicate reason i	for fee exemption (see 47 C.	F.R. Section 1.1112) and go to Question	3.				
Governmental Entit	y Nonco	mmercial educational licensee					
C IC Yes provide the Col	louing information		!				
C. If Yes, provide the following information:  Enter in Column (A) the correct Fee Type Code for the service you are applying for, Fee Type Codes may be found in the "Mass Media Services Fee Filing Guide." Column (B) lists the Fee Multiple applicable for this application. Enter in Column (C) the result obtained from multiplying the value of the Fee Type Code in Column (A) by the number listed in Column (B).							
(A)	(B)	(C)					
FEE TYPE CODE	FEE MULTIPLE (If requred)	FEE DUE FOR FEE TYPE CODE IN COLUMN (A)	FOR FCC USE ONLY				
M T R	0 0 0 1	\$ 2,030.00					
To be used only when you are	requesting concurrent actions	which result in a requirement to list m	ore than one Fee Type Code.				
(A)	(B)	(C)	FOR FCC USE ONLY				
(2)	0 0 0 1	8					
ADD ALL AMOUNTS SHOWN THROUGH (2), AND ENTER THE THIS AMOUNT SHOULD EQUAL REMATTANCE.	E TOTAL HERE.	TOTAL AMOUNT REMITTED WITH THIS APPLICATION \$ 2,030.00	FOR FCC USE ONLY				
S. This application is for: (check one box) AM X FM TV							
(b) Channel No. or Frequency City State							
1 2/14	Princi	ipal City nunity Norwood	NY				

listed below.

Respectfully submitted,

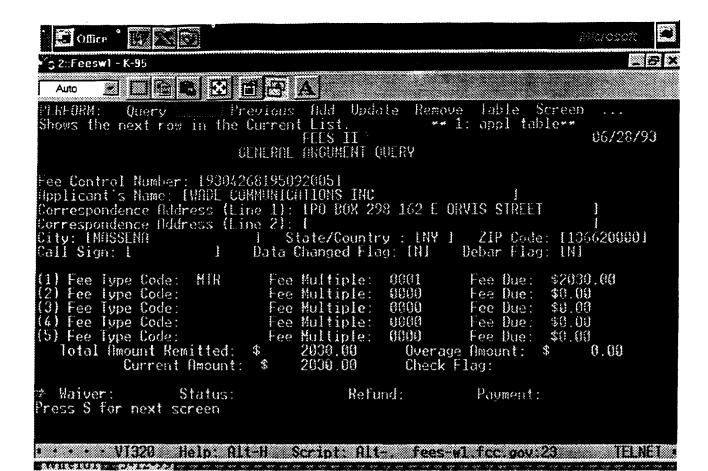
WADE COMMUNICATIONS, INC.

Timothy K. Brady Its Attorney

P.O. Box 986 Brentwood, TN 37024-0986

615-371-9367

December 2, 1998



FCC Ph.

Kemat.

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Micros.